



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-026, C-570-027]

Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention Involving Malaysia

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain corrosion-resistant steel products (CORE), completed in Malaysia, using hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products (substrate) manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from China.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 2020, Commerce published the *Preliminary Determination*¹ of circumvention of the *China CORE Orders*.² A summary of events that occurred since

¹ See *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Circumvention Involving Malaysia*, 85 FR 8823 (February 18, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *China CORE Orders*).

Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Issues and Decision Memorandum.

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE completed in Malaysia from HRS and/or CRS substrate input manufactured in China and subsequently exported to the United States (merchandise subject to these inquiries). This final ruling applies to all shipments of merchandise subject to these inquiries entered on or after the date of the initiation of these inquiries.⁴ Importers and exporters of CORE produced in Malaysia using: (1) HRS manufactured in Malaysia or other third countries, (2) CRS manufactured in Malaysia using HRS produced in Malaysia or other third countries, or (3) CRS manufactured in other third countries,

³ See Memorandum, "Issues and Decision Memorandum for the Anti-Circumvention Inquiries Involving Malaysia of the Antidumping and Countervailing Duty Orders on Certain Corrosion-Resistant Steel Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 43585 (August 21, 2019) (*Initiation Notice*), and accompanying Memorandum, "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders," dated August 12, 2019.

must certify that the HRS and/or CRS processed into CORE in Malaysia did not originate in China, as provided for in the certifications attached to this *Federal Register* notice. Otherwise, their merchandise will be subject to AD and CVD requirements.

Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because China is a non-market economy, within the meaning of section 771(18) of the Act,⁵ Commerce calculated the value of Chinese-origin input costs using prices of factors of production and market economy values, as discussed in section 773(c) of the Act. Because certain interested parties did not cooperate to the best of their abilities in responding to Commerce's requests for information, we continue to base parts of our final determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act.⁶ The Preliminary Decision Memorandum contains a full description of the methodology.⁷ We incorporate by reference this description of the methodology for our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

Based on our analysis of the comments received from interested parties, we made no revisions to the *Preliminary Determination* with regard to our analysis under the anti-circumvention factors of section 781(b) of the Act. We have made certain changes to the

⁵ See, e.g., *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a Non-Market Economy," unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

⁶ See Issues and Decision Memorandum.

⁷ See Memorandum, "Preliminary Decision Memorandum for the Anti-Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders on Certain Corrosion-Resistant Steel Products from the People's Republic of China," dated February 7, 2020 (Preliminary Decision Memorandum).

language in the certifications to provide guidance on who should complete the exporter certification, and to allow importers and exporters to clearly identify the parties involved in the sale(s) involving the export to the United States.

Final Affirmative Determination of Circumvention

We determine that exports to the United States of CORE completed in Malaysia from HRS and/or CRS substrate manufactured in China are circumventing the *China CORE Orders*. We therefore find it appropriate to determine that merchandise subject to these inquiries should be considered to be within the scope of the *China CORE Orders*, and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CORE completed in Malaysia using HRS and/or CRS substrate manufactured in China.

Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *China CORE Orders* by exports to the United States of CORE completed in Malaysia using Chinese-origin HRS and/or CRS substrate. In accordance with 19 CFR 351.225(1)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE completed in Malaysia using Chinese-origin HRS and/or CRS substrate that were entered, or withdrawn from warehouse, for consumption on or after August 12, 2019, the date of initiation of these anti-circumvention inquiries. The suspension of liquidation and cash deposit instructions will remain in effect until further notice.

CORE produced in Malaysia from HRS or CRS substrate that is not of Chinese-origin is not subject to these inquiries. However, imports of such merchandise are subject to certification requirements, and cash deposits may be required if the certification requirements are not satisfied. Additionally, CORE completed in Malaysia from HRS and/or CRS from Taiwan also has been found to be circumventing the AD order on CORE from Taiwan and such merchandise

is subject to similar certification requirements.⁸ Accordingly, if an importer imports CORE produced in Malaysia and claims that the CORE was produced from non-Chinese HRS or CRS substrate, in order not to be subject to AD and/or CVD requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendices II, III, and IV. The party that made the sale to the United States should fill out the exporter certification.

In the situation where no certification is provided for an entry, and AD/CVD orders on CORE from China or the AD order on CORE from Taiwan potentially apply to that entry, Commerce intends to instruct CBP to suspend liquidation of the entry and collect cash deposits at the rates applicable under the *China CORE Orders* (i.e., the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for all-other Chinese producers/exporters (39.05 percent)).⁹ This is to prevent evasion, given that the rates applicable to the AD/CVD orders on CORE from China are higher than the all-others rate established by the AD order on CORE from Taiwan. In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate applicable under the AD order on CORE from Taiwan (i.e., 3.66 percent).

Further, for this final determination, we continue to determine that the following companies are not eligible for the certification process: FIW Steel Sdn Bhd; Hsin Kuang Steel Co Ltd; Nippon EGAlv Steel Sdn Bhd; NS BlueScope Malaysia Sdn Bhd; and YKGI/Yung Kong Galv. Ind/Starshine Holdings Sdn Bhd/ASTEEL Sdn. Bhd. (YKGI Group) (collectively non-responsive companies).¹⁰ Accordingly, importers of CORE from Malaysia produced and/or

⁸ See *Federal Register* notice, “*Certain Corrosion Resistant Steel Products from Taiwan: Affirmative Final Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order*,” dated concurrently with this notice.

⁹ See *China CORE Orders*.

¹⁰ See *Preliminary Determination*, 85 FR at 8823, and accompanying Preliminary Decision Memorandum at 5 and 11.

exported by these ineligible companies are similarly ineligible for the certification process with regard to imports of CORE produced by, or sourced from, these companies. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Accordingly, CBP shall suspend the entry and collect cash deposits for entries of merchandise produced and/or exported by these non-responsive companies at the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for all other Chinese producers and/or exporters (39.05 percent), pursuant to the *China CORE Orders*.

Notification Regarding Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: June 1, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Verification
- VI. Use of Facts Available with an Adverse Inference
- VII. Changes since the Preliminary Determination
- VIII. Statutory Framework
- IX. Statutory Analysis
- X. Discussion of the Issues
 Comment: Whether CSC Steel Sdn Bhd (CSCM) Should be Excluded from Any
 Remedies Imposed Under the Anti-circumvention Inquiry
- XI. Recommendation

Appendix II

Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from Malaysia and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in the People's Republic of China (China), the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter of such merchandise is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation. The party that made the sale to the United States should fill out the exporter certification.

For any such certifications completed on the date of publication of this final determination through 20 days after the date of publication, exporters and importers should use the certifications attached to the *Preliminary Determination*. For any such certifications completed on or after 21 days after the date of publication of this final determination, exporters and importers should use the certifications contained below that have changed from the certifications issued with the *Preliminary Determination*.

For entries on or after the date of publication of this notice in the *Federal Register*, for which certifications are required, importers should complete the required certification at or prior to the date of entry summary, and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment. For all such entries made within the first 20 days after publication of this notice, exporters and importers should use the certifications attached to the *Preliminary Determination*. For all entries made on or after 21 days after

publication of this notice, exporters and importers should use the certifications contained below that have changed from the certifications issued with the *Preliminary Determination*.

The importer and exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of: (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is maintained for an entry, and AD/CVD orders on CORE from China or the AD order on CORE from Taiwan potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable under the *China CORE Orders* (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for all-other Chinese producers/exporters (39.05 percent)). In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate applicable under the AD order on CORE from Taiwan (*i.e.*, 3.66%).

Appendix III

Importer Certification

I hereby certify that:

A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion resistant steel products produced in Malaysia that entered under entry number(s), identified below, and which are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.*, the name of the exporter) in its records.

C) If the importer is acting on behalf of the first U.S. customer, complete this paragraph; if not, put "NA" at the end of this paragraph:
The corrosion resistant steel products covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

D) The corrosion resistant steel products covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

E) I have personal knowledge of the facts regarding the production of the corrosion resistant steel products identified below. "Personal knowledge" includes facts obtained from another party (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the country of manufacture of the imported products).

F) The corrosion resistant steel products covered by this certification were not manufactured using hot-rolled steel and/or cold-rolled steel substrate produced in China.

G) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Producer:

Producer's Address:

H) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of: (1) a period of five

years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

I) I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce).

J) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or export of the imported merchandise identified above), and any supporting records provided by the exporter to the importer, for the later of: (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

K) I understand that {NAME OF IMPORTING COMPANY} is required, upon request, to provide a copy of the exporter's certification and any supporting records provided by the exporter to the importer, to CBP and/or Commerce.

L) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

M) I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all entries to which this certification applies are within the scope of the antidumping/countervailing duty order on corrosion resistant steel products from China. I understand that such finding will result in:

i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

ii) the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

iii) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of corrosion resistant steel products from Malaysia as not manufactured using hot-rolled steel and/or cold-rolled steel substrate from China.

N) I understand that agents of the importer, such as brokers, are not permitted to make this certification.

O) This certification was completed at or prior to the date of entry summary.

P) I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

Appendix IV

Exporter Certification

SPECIAL INSTRUCTIONS: The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A) My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF COMPANY}, located at {ADDRESS};

B) I have direct personal knowledge of the facts regarding the production and exportation of the corrosion resistant steel products identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

C) The corrosion resistant steel products produced in Malaysia and covered by this certification were not manufactured using hot-rolled steel and/or cold-rolled steel substrate produced in China.

D) This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (If the foreign seller and the producer are the same party, put NA here.)

E) The corrosion resistant steel products covered by this certification were shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

F) I understand that {NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of: (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

G) I understand that {NAME OF EXPORTING COMPANY} must provide a copy of this Exporter Certification to the U.S. importer by the date of shipment;

H) I understand that {NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce).

I) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

J) I understand that failure to maintain the required certification, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all sales to which this certification applies are within the scope of the antidumping/countervailing duty order on corrosion resistant steel products from China. I understand that such finding will result in:

i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

ii) the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates as determined by Commerce; and

iii) the revocation of {NAME OF EXPORTING COMPANY}'s privilege to certify future exports of corrosion resistant steel products from Malaysia as not manufactured using hot-rolled steel and/or cold-rolled steel substrate from China.

K) This certification was completed at or prior to the date of shipment.

L) I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

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